

**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF NextGen 1.7.1.1
Eastern Division**

Emoji Company GmbH

Plaintiff,

v.

Case No.:
1:23-cv-14925
Honorable John F.
Kness

The Individuals, Corporations, Limited Liability
Companies, Partnerships, and Unincorporated
Associations Identified on Schedule A Hereto

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Monday, November 27, 2023:

MINUTE entry before the Honorable John F. Kness: Plaintiff's motion for leave to file under seal [6], motion for leave to file excess pages [9], and ex parte motion for a temporary restraining order and other relief [10] are granted. Plaintiff's submissions (e.g., Dkt. [11]) establish that, were Defendants to learn of these proceedings before the execution of Plaintiff's requested preliminary injunctive relief, there is a significant risk that Defendants could destroy relevant documentary evidence and hide or transfer assets beyond the reach of the Court. Accordingly, subject to unsealing at an appropriate time, Plaintiff may for now file under seal the documents identified in the motion to seal and appearing at docket entries [7] and [12] through [22]. The Temporary Restraining Order being entered along with this minute order shall also be placed under seal. In addition, for the purpose of the motions cited above, Plaintiff's filings support proceeding (for the time being) on an ex parte basis under FRCP 65(b)(1). Specifically, and as noted above, were Defendants to be informed of this proceeding before a TRO could issue, it is likely assets and websites would be redirected, thus defeating Plaintiff's interests in identifying Defendants, stopping Defendants' infringing conduct, and obtaining an equitable accounting. In addition, the Court finds, at least for now on this limited and one-sided record and without prejudice to revisiting the issue, that it has personal jurisdiction over Defendants because they directly target their business activities toward consumers in the United States, including Illinois. Specifically, Defendants have targeted sales to Illinois residents by setting up and operating e-commerce stores that target United States consumers using one or more Seller Aliases, offer shipping to the United States, including Illinois, accept payment in U.S. dollars, and have sold products using infringing and counterfeit versions of Plaintiff's trademarks to residents of Illinois. The evidence presented to the Court also shows that Plaintiff has demonstrated a likelihood of success on the merits (including evidence of active infringement and sales into Illinois), that the harm to Plaintiff is irreparable, and that an injunction is in the public interest. An injunction serves the public interest because of the consumer confusion caused by counterfeit and infringing goods, and there is no countervailing harm to

Defendants from an order directing them to stop infringement. Electronic service of process does not violate any treaty and is consistent with due process because it effectively communicates the pendency of this action to Defendants. As several judges have previously noted, there may be reason to question both the propriety of joining all Defendants in this one action and whether Plaintiff will pursue an accounting (which Plaintiff asserts as justification for an asset freeze), but at this preliminary stage, the Court is persuaded that Plaintiff has provided sufficient evidence of coordinated activity and the prospect of an accounting to justify the requested relief as to all Defendants. The disabling of internet stores is appropriate to prevent infringing conduct. Expedited discovery is warranted to identify Defendants and to implement the asset freeze. If any Defendant appears and objects, the Court will reconsider the asset freeze and joinder. Enter Sealed Temporary Restraining Order. Mailed notice (ags)

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